

AMENDED IN ASSEMBLY JUNE 12, 2008

AMENDED IN SENATE MAY 6, 2008

SENATE BILL

No. 1613

Introduced by Senator Margett

February 22, 2008

An act to amend Section 136.5 of the Streets and Highways Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1613, as amended, Margett. Department of Transportation: contracts.

Existing law generally requires contracts for public works to be awarded pursuant to various procedures in the State Contract Act. Existing law exempts certain types of contracts awarded by the Department of Transportation from the State Contract Act, including contracts for major damage mitigation, equipment leasing or renting, and removal or relocation of structures or improvements on highway rights-of-way. These exempt contracts are generally required to be awarded to the lowest responsible bidder after competitive bidding on any reasonable notice prescribed by the department, but only if the estimated amount of the contract exceeds \$2,500. *Exempt contracts up to and including \$2,500 are not subject to those alternative bidding procedures.*

This bill would ~~authorize the department to follow similar exempt contract procedures for~~ *provide that exempt contracts not exceeding up to and including \$25,000 for the leasing or renting of operated heavy highway equipment for state highway maintenance purposes are also not subject to those alternative bidding procedures.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 136.5 of the Streets and Highways Code
2 is amended to read:
3 136.5. (a) The contracts referred to in Sections 135, 136, and
4 136.1 are not subject to the State Contract Act (Part 2 (commencing
5 with Section 10100) of Division 2 of the Public Contract Code).
6 Except for emergency work of the type described in subdivision
7 (b), whenever the estimated amount of a contract exceeds two
8 thousand five hundred dollars (\$2,500), it shall be awarded to the
9 lowest responsible bidder, after competitive bidding on any
10 reasonable notice that the department may prescribe. Posting of
11 notice for five days in a public place in the district office within
12 which the work is to be done, or the equipment used, is sufficient.
13 Those contracts shall be subject to the applicable payment bond
14 provisions of Chapter 7 (commencing with Section 3247) of Part
15 4 of Division 3 of the Civil Code. The department may require
16 faithful performance bonds when considered necessary. The
17 advertisement for each contract shall state whether or not a bond
18 shall be required.
19 (b) In cases of emergency work necessitated by the imminence
20 or occurrence of a landslide, flood, storm damage, accident, or
21 other casualty, tools or equipment may be rented for a period of
22 not to exceed 60 days without competitive bidding, and the
23 department may waive the requirements of Chapter 7 (commencing
24 with Section 3247) of Part 4 of Division 3 of the Civil Code to the
25 extent that a contractor may commence performance of the work
26 under the contract for the rental of tools or equipment prior to
27 filing a payment bond with the department. In that case, no
28 payment shall be made to the contractor until a payment bond
29 covering all work of the contract is filed with the department.
30 (c) The department may enter into contracts not exceeding
31 twenty-five thousand dollars (\$25,000) for the leasing or renting
32 of operated heavy highway equipment for state highway
33 maintenance purposes ~~pursuant to the procedures and exemptions~~
34 ~~described in subdivision (a), notwithstanding the~~
35 ~~two-thousand-five-hundred-dollar (\$2,500) limitation in that~~

1 ~~subdivision~~, which contracts are not subject to the State Contract
2 Act pursuant to subdivision (a), but the department is not required
3 to comply with the procedures described in subdivision (a) relative
4 to those contracts. Those contracts exceeding twenty-five thousand
5 dollars (\$25,000) shall be subject to the procedures described in
6 subdivision (a). For purposes of this subdivision, “operated heavy
7 highway equipment” shall mean bulldozers, grinders, loaders,
8 pavers, oilers, and rollers that include within the leasing or rental
9 costs the cost of the qualified operator of the equipment. *This*
10 *subdivision shall not apply to contracts for the leasing or renting*
11 *of operated heavy highway equipment for emergency work, which*
12 *are governed by subdivision (b).* This subdivision shall not apply
13 to the leasing or renting of operated heavy highway equipment to
14 be utilized for new highway construction.

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